



TREATMENT OF RESIDENTIAL DWELLINGS IN AN INTEGRATED TOURISM DEVELOPMENT

An integrated tourism development or resort is a development that holds a mix of accommodation, recreation and commercial facilities that has been planned and constructed by a single developer on single or adjoining sites within a well-defined area. The development would normally include a hotel or hotels that supply a substantial amount of the total accommodation, as well as extensive recreational facilities such as swimming pools, gyms and/or sporting facilities within the boundaries of the resort. Integrated developments might also host commercial zones for retail, restaurants and entertainment facilities.

Special rules for foreign purchases of dwellings in an Integrated Tourism Resort (ITR) category were introduced in 1991 to enable tourism developers and large hotel operators to sell residential dwellings within a development to foreign persons without the need for foreign persons to seek individual foreign investment approval. The exemption only applied to resorts that were designated as ITRs by the Government and were designed to support the financial viability of tourism developments. In September 1999 the Government made changes to this exemption category and has since made changes to the foreign investment framework that allow new developments to achieve a similar treatment without the need for an ITR designation. The Government has not designated a new ITR in around 10 years.

IMPACT OF FOREIGN INVESTMENT REFORMS FROM 1 DECEMBER 2015

The *Foreign Acquisitions and Takeovers Act 1975* (Act) does not include a mechanism to approve new integrated developments as ITRs. The treatment of existing ITRs has been grandfathered to minimise adverse impacts on current foreign investors. A list of the existing Integrated Tourism Resorts can be found at [Attachment A](#) of this Guidance Note.

Dwellings purchased in a resort designated as an ITR prior to September 1999

Foreign persons seeking to purchase vacant residential land, a new dwelling or an established dwelling within a resort that was designated an ITR prior to September 1999 are exempt from the need to apply and receive foreign investment approval (item 8(1) of Schedule 3 to the Act). This only applies to residential real estate within the original designated boundaries of the ITR.

Dwellings purchased in a resort designated as an ITR from September 1999

For resorts designated as ITRs on or after September 1999, foreign persons are only exempt from the need to receive foreign investment approval for purchases of developed residential property in the resort that is:

- subject to a lease of 10 years or more to the resort operator;
- available as tourist accommodation when it is not occupied by the owner; and
- the acquisition is consistent with any conditions imposed on the ITR at that time.

All other land, including vacant land, within the ITR is subject to the foreign investment rules.

Dwellings purchased in an existing tourism development not designated as an ITR

For existing tourism resorts that are not ITRs, individual purchasers may be required to seek foreign investment approval if their proposed purchase: (a) is considered to be residential land (no threshold applies); or (b) exceeds the notification threshold for developed commercial property.

For dwellings classified as established residential dwellings, normal foreign investment eligibility requirements apply. For more information, see Guidance Note 1.

NEW TOURISM DEVELOPMENTS FROM 1 DECEMBER 2015

The Act provides mechanisms for developers to sell dwellings in new integrated tourism developments to foreign persons on the same basis as resorts which were ITRs since September 1999.

New dwellings

Property developers can apply for an exemption certificate to sell new dwellings in a specified development to foreign persons, without each foreign person purchaser being required to seek their own foreign investment approval (similar to what has previously been known as an 'advanced off-the-plan' certificate). The new dwelling exemption certificate will be granted on condition that the dwellings for sale in the development are marketed in Australia (developers can also choose to market the development overseas if they wish). Applications for a new dwelling exemption certificate are subject to fees.

Established dwellings

Established dwellings that are commercial residential premises (e.g. dwellings that are available for lease as part of the resort hotel) are able to be sold to foreign persons without the foreign person requiring individual foreign investment approval provided that:

- the value of the dwelling does not exceed the notification threshold for developed commercial land; and
- the dwelling remains a commercial residential premise (that is, available for lease as part of the resort hotel when not being occupied by the owner).

For more information, see Guidance Note 15.

FURTHER INFORMATION

Further information is available on the FIRB website at www.firb.gov.au or by contacting +61 2 6263 3795.

Important notice: This Guidance Note provides a summary of the relevant law. As this Note tries to avoid legal language wherever possible it may include some generalisations about the law. Some provisions of the law referred to have exceptions or important qualifications, not all of which may be described here. The Commonwealth does not guarantee the accuracy, currency or completeness of any information contained in this document and will not accept responsibility for any loss caused by reliance on it. Your particular circumstances must be taken into account when determining how the law applies to you. This Guidance Note is therefore not a substitute for obtaining your own legal advice.

ATTACHMENT A

INTEGRATED TOURISM RESORTS DESIGNATED BEFORE SEPTEMBER 1999

The following resorts were designated as integrated tourism resorts before September 1999:

- Hamilton Island Resort, Whitsunday Passage, Queensland
- Hope Island Resort, Hope Island, Queensland
- Hyatt Regency Resort, Coolum, Queensland
- Kooralbyn Valley Resort, Queensland
- Laguna Quays Resort — Stage 1, Repulse Bay, Queensland
- Mirage Port Douglas Resort, Port Douglas, Queensland
- Palm Cove Travelodge Resort, Queensland
- Royal Pines Resort, Ashmore, Queensland
- Sanctuary Cove, Hope Island, Queensland
- Joondalup Resort, Western Australia
- Wirrina Cove Resort, South Australia

INTEGRATED TOURISM RESORTS DESIGNATED AFTER SEPTEMBER 1999

The following resorts were designated as integrated tourism resorts on or after September 1999:

- Heritage Golf and Country Club, Chirnside Park, Victoria
- Hunter Valley Golf and Country Club Resort, New South Wales
- Kingfisher Bay Resort Village, Fraser Island, Queensland.

The registered owner of an ITR is responsible for providing prospective purchasers a copy of the approval letter where required.